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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R.S.A. No. 407 of 2001
Date of Decision : 28.8.2007

Niranjan Singh **...Appellant**

Versus

Balwinder Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. R.S.Aulakh, Advocate the appellant.

Mr. A.K.Khunger, Advocate for respondent no.1.

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RAJESH BINDAL, J.

This is defendants' second appeal against the concurrent findings of fact by both the Courts below where suit for possession filed by the respondents was decreed.

The respondents were found to be owner of the property in dispute in their respective shares. Plea set up by the appellant that he had become owner of the property by way of adverse possession was decided against him as he had failed to prove that he was in possession of the property for the last more than twelve years.

Learned counsel for the appellant could not point out any material on record, which was ignored or misread by the courts below to record above findings. All what was stated is that during the pendency of the appeal before the Ist Appellate Court, Kartar Kaur one of the co-owner had died and application for bringing her LRs on record remained pending but the appeal was decided. However, he could not deny the fact that other respondents, namely, Balwinder Singh and his minor son were the only two legal heirs of deceased Kartar Kaur and her share in the property was to be inherited by them. In case the application was to be dealt with, it would

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have the effect of bringing on record Balwinder Singh as LR of deceased Kartar Kaur and also minor son of Balwinder Singh, who could be through his father again Balwinder Singh. Once Balwinder Singh one of the co-sharer of the property was already on record, I do not think any injustice has been caused to the appellant, even if the application for brining on record the LRs of deceased Kartar Kaur had remained pending.

Accordingly, I do not find any merit in the present appeal and the same is dismissed.

August 28, 2007 **(Rajesh Bindal)**
Pka **Judge**